

CONTRA COSTA LOCAL AGENCY FORMATION COMMISSION  
MINUTES OF MEETING

October 31, 2012

Board of Supervisors Chambers  
Martinez, CA

December 12, 2012  
Agenda Item 5

1. Vice Chair Federal Glover called the meeting to order at 1:30 p.m.
2. The Pledge of Allegiance was recited.
3. Roll was called. A quorum was present of the following Commissioners:

City Members Rob Schroder and Alternate Tom Butt.

County Members Federal Glover, Mary Piepho, and Alternate Candace Andersen.

Special District Members Michael McGill, Dwight Meadows, and Alternate George Schmidt.

Public Members Don Blubaugh and Alternate Sharon Burke.

Present were Executive Officer Lou Ann Texeira, Legal Counsel Mary Ann Mason, and Clerk Kate Sibley.

4. Approval of the Agenda

Upon motion of Blubaugh, second by Piepho, Commissioners unanimously adopted the agenda.

5. Public Comments

Mike Alford, a candidate for the Martinez City Council, spoke.

6. Approval of October 10, 2012 Meeting Minutes

Upon motion of Piepho, second by Blubaugh, the minutes for the regular meeting on October 10, 2012 were approved; Commissioner Butt abstained.

7. LAFCO 11-07 – Alhambra Valley Reorganization: Annexation to the City of Martinez and Detachment from County Service Area P-6

The Executive Officer reported that, as directed by the Commission, a protest hearing was held on October 17, 2012 to receive written protests from affected landowners and registered voters regarding the proposal and determine whether a requisite protest exists.

The total number of valid protests received was insufficient to either require an election or terminate the proceedings; consequently, the reorganization is ordered.

Upon motion of McGill, second by Blubaugh, Commissioners unanimously adopted the determination and ordered the reorganization.

8. LAFCO 12-03 – San Damiano Annexation to East Bay Municipal Utility District (EBMUD)

The Executive Officer reported that, as directed by the Commission, a protest hearing was held on October 17, 2012 to receive written protests from affected landowners regarding the proposal and determine whether a requisite protest exists. No written protests were filed against this annexation; consequently, it is ordered.

Upon motion of Piepho, second by McGill, Commissioners unanimously adopted the determination and ordered the reorganization.

9. LAFCO 12-04 – Dougherty Valley Annexation #15 to the City of San Ramon

The Executive Officer provided an overview of the proposal, noting that this is the 15<sup>th</sup> in a series of planned annexations to the City of San Ramon. It was recommended that this annexation also include the detachment of the area from County Service Area P-6.

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Commissioner Burke raised the question of whether the City of San Ramon is requesting funds from County Service Area M-29, which has reserve funds in excess of five million dollars, given that the City uses its General Fund monies to supplement services in the Dougherty Valley area. Commissioners asked staff to communicate this concern to city and county staff.

Upon motion of Piepho, second by Blubaugh, Commissioners unanimously certified that it reviewed and considered the information contained in the EIR and CEQA documentation; approved the proposal to be known as Dougherty Valley Reorganization #15: Annexation to City of San Ramon and Detachment from County Service Area P-6, with specified conditions; determined that the territory being annexed is liable for the continuation of taxes, assessments and charges; found that the subject territory is inhabited, has less than 100% consent of the affected landowners and registered voters, that no affected landowners/registered voters opposed the annexation, that the annexing agency has given written consent to the waiver of conducting authority proceedings, waived the protest proceeding, and directed staff to complete the proceeding.

10. LAFCO 11-09 – Town of Discovery Bay Community Services District - Out of Agency Service Request (Farnholz Property)

The Executive Officer provided an overview and background on this proposal, noting that the subject property is located outside the Urban Limit Line and outside the Town of Discovery Bay Community Service District's (DBCSD) service boundary and SOI, and that County Environmental Health has declared it an impending public health emergency with a failing septic system.

In response to a question of who will pay for this service, Virgil Koehne, DBCSD Engineer, stated that the landowner will bear the entire cost. Commissioners Meadows stated that despite his reluctance to approve out of agency service requests, he knows the area and must support this request.

Upon motion of Piepho, second by McGill, the Commission unanimously found the annexation exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3); authorized DBCSD to extend sewer service outside its boundary to the Farnholz property at 14021 Highway 4 in unincorporated Byron, subject to specified terms and conditions.

11. Island Annexations and LAFCO Policies & Procedures

The Executive Officer provided a brief chronology of the Commission's previous discussions of islands, both general policies and specific areas within Contra Costa County. Following a request from Commissioners at the October 10, 2012 meeting, the Policy Subcommittee met with staff to review the Commission's policy in light of the recent Attorney General's Opinion, and presented proposed policy revisions to the Commission.

Commissioners discussed the proposed policy and corresponding legal analysis as presented and how it relates to the Northeast Antioch annexations; staff replied that it provides the flexibility needed to treat Area 2B as an island in its own right and to go forward with annexation without protest proceedings.

Dan DoPorto, legal counsel for the City of Antioch, commented that he does not agree with the conclusions of the legal analysis, particularly as it applies to Area 2B; he believes staff underestimates the legal risks. The residents of Area 2B have expressed opposition to annexation and they should be entitled to vote.

Victor Carniglia, consultant to the City of Antioch, echoed Mr. DoPorto's concerns, adding that the City's in-house counsel agrees. He noted that the City would be unlikely to indemnify LAFCO on this; and if a vote is not allowed, LAFCO may incur legal costs. He added that LAFCO might be wise to get second opinion.

Commissioner Piepho noted that the proposed policy applies countywide, and gives flexibility to LAFCO when considering annexations in general. Staff added that two leading LAFCO attorneys are on record that the AG Opinion is flawed. The Chair reminded Commissioners that they would only be addressing the general policy revisions before them. Further discussion ensued.

Commissioner McGill stated that he had a conversation with Mr. Carniglia on October 30 on this topic.

Upon motion of Blubaugh, second by Butt, Commissioners unanimously adopted the revised island policy with the change (removal of "and" in final line of paragraph (2)(a)) recommended by Commissioner Piepho.

Commissioner McGill asked if the applicability of the revised policy to Northeast Antioch would be brought back for discussion. Legal Counsel stated that would have to be agendized for a future meeting.

12. 2013 LAFCO Meeting Schedule

The Executive Officer presented the proposed 2013 meeting schedule, noting it is proposed that the April meeting be held on the third Wednesday, as the annual CALAFCO Staff Workshop will be held April 10-12, in conflict with the usual second Wednesday schedule.

Upon motion of Piepho, second by McGill, Commissioners unanimously approved the schedule as proposed.

13. Correspondence

There were no comments.

14. Commissioner Comments and Announcements

Commissioner McGill stated that he would like to place the issue of the Northeast Antioch Area 2B on a future meeting agenda.

15. Staff Announcements and Pending Projects

The Executive Officer reported that the CALAFCO Board will meet on November 9, and the CALAFCO Legislative Committee will kick off its session on November 16.

Ms. Texeira also stated that as there are no time-sensitive items for November, she is hoping to cancel the November 14 meeting, and will work with the Chair on this.

The meeting was adjourned at 2:11 p.m.

Final Minutes Approved by the Commission on December 12, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

By \_\_\_\_\_  
Executive Officer